

August 18, 2014

Mr. John Canoles
Eco-Science Professionals, Inc.
P.O. Box 5006
Glen Arm, MD 21057

Re: Royal Farm Store at 11510 Reisterstown Road
Forest Conservation Variance Request
Tracking #04-14-1856

Dear Mr. Canoles:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on August 6, 2014. This request would allow the removal of one specimen tree to redevelop a 2.5-acre commercial site as a convenience store. The specimen tree to be removed is a 33-inch DBH magnolia in good condition.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant is seeking to redevelop an existing commercial property. Full application of the law to the entire property would result in unwarranted hardship to the applicant, given that the specimen tree is located near Reisterstown Road where access would need to be obtained; thus, its retention would preclude reasonable redevelopment. Consequently, we find that while this criterion has been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that their plight is due to unique circumstances and not the general conditions of the neighborhood. The need for the requested variance arises from the

Mr. John Canoles
Royal Farm Store at 11510 Reisterstown Road
Forest Conservation Variance Request
August 18, 2014
Page 2

unique circumstance of the specimen tree being on the site as well as the fact that redevelopment is proposed. Therefore, the plight is associated with the subject property rather than general conditions in the neighborhood. Consequently, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The proposed redevelopment is consistent with the current use of the property and the commercial nature of the neighboring properties along Reisterstown Road. Therefore, we find that the scope of the redevelopment project will not alter the essential character of the neighborhood; thus, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. We have determined that there are no wetlands, streams or floodplains on or near the subject improvements. Furthermore, the redevelopment activity will comply with the applicable provisions of the storm water management law. Therefore, we find that granting of the special variance will not adversely affect water quality, and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has not taken any actions on the property prior to requesting this variance. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing the removal of one specimen tree for the redevelopment of an existing industrial site would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to forest or water quality would result from the proposed development, and the tree would likely die due to its critical root zones being disturbed and groundwater recharge area paved over in the course of redevelopment. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-6-116 of the Baltimore County Code with the following conditions:

1. The project's 0.4-acre afforestation requirement shall be met by purchasing credit at an EPS-approved forest retention bank or paying an \$8,712 fee-in-lieu. A bank authorization letter is enclosed for your use. The fee shall be

Mr. John Canoles
Royal Farm Store at 11510 Reisterstown Road
Forest Conservation Variance Request
August 18, 2014
Page 3

paid to EPS, or the signed bank letter shall be returned to EPS indicating that retention bank credit has been purchased prior to issuance of any permits or approval of an Environmental Agreement.

2. The removal of the specimen magnolia shall be mitigated by payment of a \$1,923 fee in lieu of planting prior to issuance of any permits or approval of an Environmental Agreement. This fee is in addition to the afforestation requirement cited above.
3. This variance approval does not exempt future development activity at this site from compliance with Baltimore County's Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

Please have the property owner sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If there are any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely,

Vincent J. Gardina
Director

VJG/ges

Enclosure

c. Marian Honeczy, Maryland DNR

Mr. John Canoles
Royal Farm Store at 11510 Reisterstown Road
Forest Conservation Variance Request
August 18, 2014
Page 4

I/we agree to the above conditions to bring my/our property into compliance with
Baltimore County's Forest Conservation Law.

Property Owner Representative's Signature

Date

Property Owner Representative's Printed Name